

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

|                            |   |                         |
|----------------------------|---|-------------------------|
| MARCUS BROWN, # 08682-021, | ) | C.A. No. 6:04-22811-TLW |
|                            | ) |                         |
| Petitioner,                | ) |                         |
|                            | ) |                         |
| vs.                        | ) | <b>ORDER</b>            |
|                            | ) |                         |
| MATTHEW B. HAMIDULLAH,     | ) |                         |
| WARDEN, FCI ESTILL,        | ) |                         |
|                            | ) |                         |
| Respondent.                | ) |                         |
|                            | ) |                         |
| _____                      | ) |                         |

In this *pro se* case, petitioner, a federal inmate now or formerly incarcerated at the Federal Correctional Institution, has filed the instant petition pursuant to 28 U.S.C. § 2241 alleging that the respondent is forcing him to serve more jail time than necessary. The respondent denies these allegations and has filed a motion to dismiss and/or for summary judgment. (Doc. # 4).

By Order of this Court filed January 20, 2005, pursuant to Roseboro v. Garrison, 528 F.2d 309 (4<sup>th</sup> Cir. 1975), the petitioner was advised of the summary dismissal procedure and the possible consequences if he failed to respond adequately. Despite this explanation, the petitioner elected not to respond to the motion.

As the petitioner is proceeding *pro se*, this Court filed a second Order on March 3, 2005, giving the petitioner through March 28, 2005, to file his response to the motion to dismiss and/or for summary judgment. The petitioner was specifically advised that if he failed to respond, this action would be dismissed for failure to prosecute. Again, the

petitioner elected not to respond to the motion.

This matter now comes before the undersigned for review of the Report and Recommendation (“the Report”) filed by United States Magistrate Judge William M. Catoe, to whom this case had previously been assigned. In his Report, Magistrate Judge Catoe recommends that this action be dismissed for lack of prosecution. As reasoned by the Magistrate Judge:

...it appears that the petitioner no longer wishes to pursue this action

No party has filed objections to the Report.<sup>1</sup>

This Court is charged with conducting a *de novo* review of any portion of the Magistrate Judge’s Report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636. As noted above, no objections have been filed to the Report. In the absence of objections to the Report and Recommendation of the Magistrate Judge, this Court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4<sup>th</sup> Cir. 1983).

A *de novo* review of the record indicates that the Report accurately summarizes this case and the applicable law. For the reasons articulated by the Magistrate Judge, it is **ORDERED** that this case is **DISMISSED**, without prejudice, for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. (Doc. # 4).

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<sup>1</sup>On June 14, 2005, the copy of the Report which was sent to the petitioner at his last known address was returned to the Clerk of Court’s office as “Not Deliverable as Addressed-Unable to Forward.” By prior Court Order dated November 16, 2004, this Court had specifically directed the petitioner to notify the Clerk of Court in writing of any change of address.

**IT IS SO ORDERED.**

s/ Terry L. Wooten  
Terry L. Wooten  
United States District Court Judge

June 23, 2005  
Florence, South Carolina